



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

February 11, 1997

Ms. Joan Rigsby
Legal and Administrative Services
Round Rock Independent School District
1311 Round Rock Avenue
Round Rock, Texas 78681

OR97-0329

Dear Ms. Rigsby:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 103662.

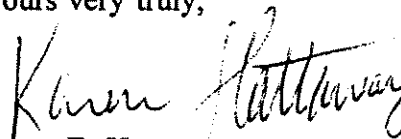
The Round Rock Independent School District (the "district") received a request for "a copy of the letter of warning issued to" a particular teacher. You assert that the letter is excepted from disclosure under section 552.101 of the Government Code in conjunction with section 21.355 of the Education Code. You also believe that the letter is excepted from disclosure pursuant to section 552.102 of the Government Code. We have considered the exceptions you claim and have reviewed the document at issue.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. In the last legislative session, Senate Bill 1 was passed, which added section 21.355 to the Education Code. Section 21.355 provides, "Any document evaluating the performance of a teacher or administrator is confidential." This office recently interpreted this section to apply to any document that evaluates, as that term is commonly understood, the performance of a teacher or administrator. Open Records Decision No. 643 (1996). We enclose a copy of Open Records Decision No. 643 (1996) for your information. In that opinion, this office also concluded that a teacher is someone who is required to hold and does hold a certificate or permit required under chapter 21 of the Education Code and is teaching at the time of his or her evaluation. *Id.* Similarly, an administrator is someone who is required to hold and does hold a certificate required under chapter 21 of the Education Code and is administering at the time of his or her evaluation. *Id.* Having reviewed the warning letter, we conclude that it is not confidential under section 21.355 of the Education Code. We do not believe that the letter is a document that evaluates, as that term is commonly understood, the performance of a teacher or administrator. Therefore, the letter is not excepted from disclosure under section 552.101 of the Government Code.

Section 552.102 excepts from disclosure "information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." Section 552.102 excepts information in personnel files only if it meets the test articulated under section 552.101 for common-law invasion of privacy. *Hubert v. Harte-Hanks Tex. Newspapers*, 652 S.W.2d 546 (Tex. App.--Austin 1983, writ ref'd n.r.e.). For information to be protected from public disclosure by the common-law right of privacy under section 552.101, the information must meet the criteria set out in *Industrial Foundation v. Texas Industrial Accident Board*, 540 S.W.2d 668 (Tex. 1976), cert. denied, 430 U.S. 931 (1977). In *Industrial Foundation*, the Texas Supreme Court stated that information is excepted from disclosure if (1) the information contains highly intimate or embarrassing facts the release of which would be highly objectionable to a reasonable person and (2) the information is not of legitimate concern to the public. 540 S.W.2d at 685. The warning letter is not highly intimate or embarrassing and is of legitimate interest to the public. Open Records Decision No. 470 (1987). Therefore, the letter is not excepted from disclosure pursuant to section 552.102 of the Government Code. Because the exceptions to disclosure that you have claimed do not protect the warning letter, the district must release the letter to the requestor.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have any questions about this ruling, please contact our office.

Yours very truly,



Karen E. Hattaway
Assistant Attorney General
Open Records Division

KEH/ch

Ref: ID# 103662

Enclosures: Submitted document
Open Records Decision No. 643 (1996)

cc: Ms. Sonia Maldonado
1400 Mesa Park
Round Rock, Texas 78664
(w/o submitted document; w/Open Records Decision No. 643 (1996))